

Investigative Means and Measures

The success of an investigation can depend on the local application of criminal intelligence that investigators, worldwide, gather and process about crimes committed by individuals or organized crime groups. This criminal intelligence helps investigators identify criminals and makes them aware of criminal activity and violations of criminal law. It also helps them prevent crime by allowing them to assess crime problems and trends.

The US Army uses criminal intelligence to reveal criminal activities affecting the US Army. Only data that are needed are collected. Data solely about political activities are not collected. DA policy, stated in AR 380-13, forbids collection and retention of data on non-DOD personnel except for data about crimes where DOD has responsibility to investigate or prosecute.

Criminal intelligence is more than just data documented in ongoing investigations. It is any information observed or obtained by investigators that may be of value when added to the criminal intelligence already

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possessed. The process by which investigators change the raw data from untried, undeveloped information into a useful form for investigative needs is called the criminal intelligence process. It is an ongoing cycle of planning, collecting, evaluating, collating, analyzing, reporting, disseminating, and reevaluating. The process, undertaken continuously both at local levels and at higher HQ, ensures that a broad spectrum of criminal intelligence is available to aid the investigator. The intelligence that is gathered is processed and disseminated to all levels.

GATHERING CRIMINAL INTELLIGENCE

At command level, the Investigative Operations Directorate, USACIDC, supervises the US Army's criminal intelligence effort. It sets information priorities for worldwide collection. And it disseminates processed criminal intelligence to local levels. USACIDC sets guides for two types of criminal intelligence: essential elements of criminal intelligence (EECI) and other criminal intelligence requirements (OCIRs). OCIRs are data that may be useful, but often are not needed right away. EECI, on the other hand, are critical items of data on criminal activities and crime areas to be collected at all levels. When EECI data are

correlated and disseminated to local units, this information can be used to reach conclusions and make decisions.

At installation level, USACIDC offices and certain MP elements supervise the planning and collection of criminal intelligence. The criminal intelligence coordinators in local units plan and collect information of criminal functions within command boundaries. They then forward it on request or on their own initiative. They also set local priorities within the overall program. They keep in touch with criminal intelligence and law enforcement agencies.

At investigator level, data are planned and collected for input to the criminal intelligence system. Collecting criminal intelligence is a continual duty of all investigators, not just those assigned directly to a criminal intelligence section. The investigator is the key to a successful collection effort. The investigator is usually the person in direct contact with local human sources of criminal intelligence. During daily activities the investigator looks for EECI and OCIRs. He does this continuously and aggressively. Although priority is placed on EECI needs, he must not overlook other useful criminal intelligence.

The local criminal intelligence coordinator helps the investigator sift, sort, review, and analyze data. Sources of criminal intelligence are developed. Criminal intelligence is gathered from both overt and covert sources. Overt sources may be citizens, workers in private and government agencies, members of police agencies, and unit commanders. Postal workers, news media, phone books, and public records are also good, overt sources of criminal intelligence. Covert sources include criminal elements willing to be sources and surveillant and undercover investigators. Development of sources of criminal intelligence is limited only by the imagination of the investigator.

After data have been collected, collated, and analyzed, they must be reported. Because some data being reported are sensitive, criminal intelligence is usually reported on USACIDC Form 97 (Criminal Intelligence Report). Reports are tailored to the needs of the main user. Positive information is given. Reports are prepared objectively. Conclusions drawn from the data are included in the report. After the reported information is further analyzed at higher levels, criminal intelligence is disseminated back to local levels. The criminal intelligence is disseminated to reach the principal user—the local investigator.

Criminal intelligence must be accurate and relevant. Usually the investigator who collects the details is most able to assess the reliability of his or her source. That investigator can determine reliability by recalling past experience with that source, as well as comparing the data with that gathered from other overt or covert sources. But even when the reliability of a source or accuracy of the criminal intelligence collected is questioned, it is not considered useless. It is reported. The immediate need for an item of criminal intelligence may not be seen. But this does not mean that item is not of value.

Higher USACIDC levels, having wider sources of criminal intelligence than lower levels, may assess the accuracy and usefulness of an item of data by comparing it with a variety of other known data and circumstances. When seemingly useless bits of criminal intelligence are fitted together, the many separate bits may, like jigsaw puzzle pieces, form a recognizable picture. The criminal intelligence collected on every new case must be coordinated with the criminal intelligence center.

To bring together collected data to decide their importance and relation to other criminal intelligence, data must be collated and analyzed. The data must be combined with other related data and then analyzed to allow sound theories and judgments to be derived. The analysis of criminal intelligence can be done at the same time as collation. The same data may be analyzed many times and by a variety of methods. The methods of statistical, system, computer, or operational research analysis may be used. However, when an analysis is done at any level of command, it is done to see if a pattern can be shown and to see if more data are needed. An analysis also serves as a tool to reevaluate collection plans.

Reevaluation is the final stage of the criminal intelligence process. It is a review at all levels of the potential use and benefit

of the collected criminal intelligence. Reevaluation serves to show where changes need to be made. It ensures that the information to be gathered reflects the needs and goals of local investigative units and of such units in general. It ensures the criminal

intelligence reflects current targets of interest, as areas of concern vary over time. And it ensures the information is obtainable from the contacts and sources of criminal intelligence that are available.

USING AND PROVIDING CRIMINAL INTELLIGENCE

To be useful, criminal intelligence must be available and easily retrievable. Only if the investigator can get to the criminal intelligence can he see if any exists that will aid him in an ongoing investigation.

Three files are required by regulation to be maintained at each local USACIDC office. These are the name index card file, the *modus operandi* file, and the offense file. The name index card file contains criminal intelligence cross-indexed by subjects, victims, witnesses, and organizations. The *modus operandi* file contains criminal intelligence on distinct manners of operation cross-indexed by subjects and cases. And the offense file contains criminal intelligence indexed by the type of crime committed.

But a unit's investigative file system is not limited to these. Other useful files may include criminal intelligence indexed by unit, location, nicknames, stolen property, or type of vehicles. Criminal intelligence may be indexed by any topic which would benefit the investigative needs of a given office.

When an investigation is initiated, the criminal intelligence files are checked for information regarding offenders, victims, witnesses, *modus operandi*, similar offenses, and, perhaps, even locale. And while working on the case, the investigator must

remain aware of the value of continuing to cross-check leads or other aspects of the case against the available criminal intelligence. When an investigation is complete, and the investigator drafts his report of investigation, he makes a last review of the criminal intelligence. This action will ensure the thoroughness of the report. And it will allow criminal intelligence gained in the investigation to be checked against any unsolved cases and, perhaps, aid in solving them.

When acting on a request for criminal intelligence the investigator coordinates with the local Freedom of Information Act officer. The right to obtain information and the right to refuse to release information are limited by regulation and by the Privacy Act and the Freedom of Information Act. AR 340-17 gives guidance on USACIDC and MP law enforcement criminal intelligence systems. It exempts some law enforcement investigative files from disclosure. These files include source files and investigative working files.

As a participant in the criminal intelligence process, the investigator must understand and comply with legal and regulatory restrictions on collecting, maintaining, and releasing information.

CONDUCTING INTERVIEWS AND INTERROGATIONS

Most investigations depend heavily upon the ability of the investigator to obtain criminal intelligence. The solution to many crimes has been the direct result of leads and evidence developed through interviews and interrogations.

Before MPIs can hope to develop interviewing and interrogating skills, and before supervisors can guide their subordinates, they must know the fundamental techniques of interviews and interrogations. Basic understanding and

attitudes must precede the development of communications skills.

Interviews and interrogations are an investigator's means of obtaining criminal intelligence from or about persons connected with an incident. Investigators interview persons who they believe are willing to give information about a case. In an interview they help people give, in their own manner and words, their account of the matter. After they give their account, the investigator reviews it with them to be clear on key points. Or the investigator asks questions to have them clearly explain matters not covered before, depending on the elements of the offense under investigation. Investigators may have to question a number of people to get the criminal intelligence needed. They may need to question people who know a victim, a suspect, or a witness. These people can help investigators understand the reasons and actions of those involved in an incident they are investigating. These interviews, often conducted in the office, home, or place of business of the person being interviewed, rarely result in an interrogation. Investigators interrogate only persons suspected of having committed or helped commit an offense, or persons believed to be withholding criminal intelligence about an offense. In an interrogation investigators rigorously question persons unwilling to give the criminal intelligence they are seeking. They avoid interrogating anyone who can be successfully interviewed.

Investigators may find that some persons questioned are only "distracters." They have no real connection with the crime, but they seek to present criminal intelligence. They may be publicity seekers who say they witnessed the crime. Or they may be emotionally disturbed persons claiming involvement in the crime. Despite the distraction these people create, investigators should not ignore them. Investigators must make every effort to handle these persons so that neither the investigation nor the reputation of the armed forces suffers.

Investigators listen to their stories. They check what the people say in relation to the known facts. Then they take the necessary action.

Procedures for preparing, planning, and conducting interviews and interrogations are found in FM 19-20.

Every investigation involves the gathering of evidence, both physical and testimonial. The collection and evaluation of physical evidence is an important part of the MPI's job. However, without interpersonal communication, the items of physical evidence have little or no practical value. It is through communication with other individuals that background data, giving evidence meaning, are obtained. Therefore, it is important that MPIs become effective communicators. The military investigators will find that a heavy percentage of the work load will be directly related to the gathering, evaluating, and recording of criminal intelligence resulting from interviews and interrogations. The questioning of suspects, witnesses, complainants, victims, and informants is the investigative procedure most frequently used by police officers. As a result of these activities, the investigative supervisor will find that the majority of the work load will consist of evaluating interview and interrogation results.

It is essential to the investigative process that the MPI supervisor ensures that during and immediately following an interview, MPI personnel strive to evaluate the individual interviewed, any criminal intelligence obtained, and the investigator's performance. These evaluation steps must be accomplished to ensure that complete and accurate reports are subsequently written. For example, the number of false complaints, especially in cases of sex crimes, is very high; victims of thefts often exaggerate; homosexuals will, at times, name other homosexuals with whom they have had contact or nonhomosexuals whom they dislike for another reason. Eyewitness accounts are frequently not reliable, and no

two witnesses are likely to give the same account of an incident. If they do, the investigator should scrutinize the information carefully and make certain that deception has not occurred. The investigator who is conscientious about improving his or her ability to interview persons successfully evaluates performance during and after each interview or interrogation. An evaluation should include approach, manner, and success of the interview. This procedure is particularly necessary when the investigator has been successful in obtaining from the individual all the criminal intelligence that was believed to be available. When a suspect confesses and a written statement has been completed, it can be of great assistance in engaging the suspect in casual conversation and asking him what was said or done that caused him to confess. Through use of such means, the investigator can improve knowledge and techniques each time an interview is conducted.

Not only does the investigator have an enormous responsibility, but the investigative supervisor must assure that the procedures are being effectively applied by

their investigators and that all necessary criminal intelligence relating to the investigation is being obtained. Therefore, it is important that MPs and their supervisors know how to effectively conduct themselves in interview and interrogation situations and how to evaluate the criminal intelligence obtained.

A criminal surprised and apprehended in the act of committing a crime is sometimes interviewed at the scene while still under considerable emotional strain. Properly handled, this interview may often produce an admission or confession that will help to establish the guilt of the criminal and other accomplices. These instances, however, are rare. Normally the interview is conducted at the MP investigation section, either in an interrogation room or in individual investigative offices, where the emotional feelings of guilt have to be cultivated by the investigator using established techniques. The proper environment for this type of interview is just as essential as the skills of the investigator. (Refer to FM 19-20 for complete discussion of interviews and interrogations.)

OBJECTIVES OF INTERVIEWS AND INTERROGATIONS

INTERVIEWS

Investigators interview persons who are willing to give information. The aims or goals include—

- ☐ GATHERING INFORMATION
- ☐ DEVELOPING LEADS
- ☐ AIDING IN LOCATING PROPERTY
- ☐ ASSISTING IN CLEARING SUSPECTS
- ☐ VERIFYING SUSPICIONS
- ☐ CONDUCTING INTERROGATIONS
- ☐ GATHERING CRIMINAL INTELLIGENCE NEEDS

INTERROGATIONS

Investigators interrogate only persons suspected of having committed or helped commit an offense. The aims or goals include—

- ☐ LEARNING THE TRUTH
- ☐ OBTAINING AN ADMISSION OF GUILT
- ☐ RECOVERING EVIDENCE /PROPERTY
- ☐ DISCOVERING CRIMES
- ☐ OBTAINING ALL THE FACTS
- ☐ ARRIVING AT A CONCLUSION
- ☐ DEVELOPING CRIMINAL INTELLIGENCE INFORMATION

Depending on the situation at the time, many locations are used as appropriate facilities for interviewing individuals having knowledge of an incident being investigated. However, when interrogating, the best facility to use is an interrogation room to ensure that the proper psychological atmosphere exists. The following guidance should be followed:

- If any type of recording equipment is employed, the interviewer must follow the procedures in FM 19-20.
- Desks, tables, and other furniture should be located neither where they will impair the interviewer's observation of the subject, nor where they will constitute a psychological or physical barrier to the communication between the interviewer and subject.

- If a telephone must be installed in the office being used as an interrogation room, the interviewer should arrange for incoming calls to be transferred to another telephone.

Every MP investigation section should possess at least one interrogation room of the type just described. If the section does not possess such an interrogation room, individual offices will have to be used until a facility is constructed. The individual investigator's offices should conform to the guidance just discussed if possible. The most important factor for the office interrogation room or individual investigator's office is the uninterrupted privacy of the facility to ensure that the individual being interviewed will not be distracted and will be able to concentrate on the conversation.

PERFORMING SURVEILLANCE AND COVERT OPERATIONS

As investigators develop their special skills they may be called on to work on a surveillance or covert operation. Surveillances and covert operations are undertaken to learn about a suspect's activities and relationships. In these operations investigators attempt to watch suspects or associate with them without their becoming aware of police interest. But for the operations to be successful, the investigators conducting them must be trained and experienced. And sometimes they must have special skills. They may even take on entirely different identities. There may be total, and in some cases dangerous, involvement of the investigators. Because of this, surveillances and covert operations are used only if there is no other way that will work as well to get needed criminal intelligence.

SURVEILLANCES

Police surveillance is the systematic observation of persons, places, or things to get criminal intelligence. Surveillant make notes of actions they see performed by subjects under surveillance. If there is more

than one surveillant, the notes can be compared for accuracy. Normally, surveillance deals with persons. Places and things are watched if they relate to people or missions. Surveillance can provide information about a person's activities. It can show where persons under surveillance go. Or it can show where criminal activity takes place. It can verify the reliability of a source's information. (FM 19-20 discusses surveillance operations in detail.)

COVERT OPERATIONS

A covert operation is an investigative process where the investigators use pretexts and disguises in order to get as close as possible to suspects, their associates, and criminal activity. An important purpose of a covert operation is to obtain circumstantial evidence.

While all investigations do not require a covert operation, a number of investigations depend primarily on investigators operating in a covert status to some degree. An investigator may be put in a covert status to determine if a crime is being planned or has been committed, to determine the location of

the crime, and to identify persons involved in the crime. Probable cause can be developed by the investigator so that apprehension warrants and search warrants can be obtained when necessary.

The first step in the planning process for a covert operation is to determine if a covert operation is needed. The needs may be identified through a number of actions such as—

- Criminal intelligence.
- Liaison with other agencies.
- Observations.
- Crime prevention.
- Statistics.

Liaison is a must when coordinating a covert operation. If relationships are bad, it will be difficult to obtain good results from the operation. A covert operation, in most cases, requires coordination with the SJA, federal investigative agencies, and civil authorities.

The number of investigators required for a covert operation must be determined. A covert operation may last for a long period of time. Therefore, investigators selected must not be scheduled for PCS, TDY, or to go on leave.

On occasion, it may be advantageous for the covert investigator to use public transportation such as buses, trains, taxis, or subways. However, during most covert investigations, the investigator is provided a vehicle of some type. The means of transportation chosen is tailored to the selected cover identity of the investigator as well as the nature of the operation. The type vehicle chosen will vary according to the operation.

Weapons are carried by a covert investigator when there is imminent danger or if an apprehension might be necessary. If an investigator is to carry a weapon, it is a nonstandard issue-type weapon.

The carrying of any type of illegal weapon, such as a switchblade knife, by a covert investigator is not authorized without prior approval. Prior approval must be obtained in writing from appropriate military or civil authorities or both.

An investigator must be provided communication equipment and a point of contact. At a minimum, the investigator must be provided a telephone and a 24-hour contact point, preferably another investigator or supervisor. The investigator does not go through official channels such as

INVESTIGATOR CHARACTERISTICS FOR PERFORMING COVERT OPERATIONS

- | | |
|---|---|
| <input type="checkbox"/> Be experienced. | <input type="checkbox"/> Have common sense. |
| <input type="checkbox"/> Have the ability to work with others. | <input type="checkbox"/> Use good judgment. |
| <input type="checkbox"/> Be able to handle fear. | <input type="checkbox"/> Have self-confidence. |
| <input type="checkbox"/> Dress as the mission requires. | <input type="checkbox"/> Be intelligent. |
| <input type="checkbox"/> Know what personal possessions he has and be aware that certain possessions might identify him as a covert investigator. | <input type="checkbox"/> If necessary, know street terminology. |
| <input type="checkbox"/> Be able to speak the language of the area. | <input type="checkbox"/> Have pride in his work. |
| <input type="checkbox"/> Know that his morals and integrity will constantly be tested. | <input type="checkbox"/> Have the ability to listen. |
| | <input type="checkbox"/> Be physically fit. |
| | <input type="checkbox"/> Be able to control his emotions. |

the MP desk sergeant unless it is an emergency.

An investigator must keep his background story as close as possible to his actual history. This makes it easier for the investigator to remember the background story, and it also prevents mistakes that might occur.

The investigator must memorize his background story to prevent the story from changing if questioned by different members of the criminal element. An investigator must assume that criminals will try to trick him to find out if he is the person he claims to be. An investigator must always anticipate questions that the criminal element might ask. The criminal element will ask questions, knowing the correct answers, to see if the investigator is telling

the truth. The investigator must never admit to the criminal element to being an MP.

Once a background story is presented to the criminal element, it is not unusual for the criminal element to check out the story. The investigator must ensure that data are maintained in offices where the background story might be checked.

If apprehended, the investigator must have specific instructions on what to do. The investigator never identifies himself as an MP in the apprehension unless there is reason to believe that he will be hurt by the authorities. Once at the jail, the investigator must tell the jailer that he is a covert investigator. The investigator must know of a name of a police official, other than the police chief, whom the jailer might recognize.
